

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

AF HOLDINGS LLC,
Plaintiff,

v.

THANG NGO,
Defendant.

No. C 12-02416 WHA

**ORDER TRANSFERRING
ACTION TO SAN JOSE DIVISION**

In this copyright-infringement action involving an allegedly unlawful video download, *pro se* defendant, recently identified as Thang Ngo, moves to transfer this action to the San Jose Division. Plaintiff AF Holdings LLC opposes.

Under Civil Local Rule 3-2(h):

Whenever a Judge finds, upon the Judge's own motion or the motion of any party, that a civil action has not been assigned to the proper division within this district in accordance with this rule, or that the convenience of parties and witnesses and the interests of justice will be served by transferring the action to a different division within the district, the Judge may order such transfer, subject to the provisions of the Court's Assignment Plan.

Because this action involves intellectual property, our local rules do not require that it is assigned to the Division where a substantial part of the events arose. CIVIL L.R. 3-2(c).

It is undisputed that there are no parties or witnesses that reside in San Francisco. AF Holdings is a foreign corporation with local counsel in Mill Valley (15 miles from the San Francisco courthouse and 70 miles from the San Jose courthouse). Defendant Ngo

1 resides in San Jose, where the allegedly unlawful video download also took place. Importantly,
2 Ngo avers that he is “indigent, and cannot afford the commute to travel to San Francisco for
3 assistance from the Federal Self Help Center, nor can [he] afford the travel expense to attend
4 court in San Francisco, CA” (Dkt. No. 13). On the other hand, Ngo has received legal assistance
5 from the Federal Legal Assistance Self-Help Center (“FLASH”) at the San Jose courthouse.
6 Indeed, it was someone in the FLASH program who advised Ngo to move for intra-district
7 transfer to San Jose (Dkt. No. 13). This action against Ngo can result in severe civil penalties
8 (statutory damages up to \$150,000 per infringement). The interests of justice urge that this
9 action be tried in the division where Ngo can appear for court hearings and seek legal counsel.
10 Therefore, this action is hereby transferred to the San Jose Division for reassignment.

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12 **IT IS SO ORDERED.**

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14 Dated: September 5, 2012.

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17 WILLIAM ALSUP
18 UNITED STATES DISTRICT JUDGE
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